

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

BILLY BRANTLEY, et al.,

Plaintiffs,

v.

CINERGY CORP.,

Defendant.

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CASE NO. C-1-01-378

Judge Michael H. Watson

NOTICE OF FILING AFFIDAVIT

The Plaintiffs hereby give notice of the filing of the affidavit of their counsel, Susan Donahue. Plaintiffs' counsel has filed this affidavit to clarify to the Court the circumstances pursuant to which she filed the Plaintiffs' Motion for Leave to File Surreply (Doc. no. 117) docketed on December 14, 2004. Said Motion is not a redundant, immaterial, or scandalous motion in violation of Fed. R. Civ. Pro. 12(f) as the Defendant alleges. Rather, as the attached affidavit reflects, it was filed in this format because this Court's docketing clerk instructed Plaintiffs' counsel to do so.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that on December 28, 2004, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification to:

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